



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2237/2
MED:jld:rs

due Wednesday
(TODAY)

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2013 BILL

D-note

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Regen

1 AN ACT *to repeal* 448.04 (1) (b) 2., 448.04 (1) (c), 448.065, 448.10 (1), (4) and (5),
2 448.10 (2m) and 448.10 (3m); *to renumber* 448.10 (1m); *to amend* 440.08 (2)
3 (a) (intro.), 448.02 (1), 448.05 (1) (c), 448.05 (1) (d), 448.05 (6) (a), 448.06 (1),
4 448.08 (1) (a), 448.08 (1) (a) and 462.01 (4); *to repeal and recreate* 448.05 (2);
5 and *to create* 448.04 (1) (ac), 448.04 (1) (bg) and (bm), 448.05 (2c), 448.05 (6)
6 (at), 448.063 and 448.10 (1m), (2m) and (3m) of the statutes; **relating to:**
7 licensure of physicians; providing an exemption from emergency rule
8 procedures; and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, physicians are licensed under the authority of the Medical Examining Board (MEB), a credentialing board attached to the Department of Safety and Professional Services. A physician's credential to practice is known as a license to practice medicine and surgery. This bill makes various changes regarding the licenses to practice medicine and surgery and related credentials issued by the MEB. Significant changes in the bill are described as follows:

REGULAR LICENSES TO PRACTICE MEDICINE AND SURGERY

Current law

Current law provides that an applicant for any class of license to practice medicine and surgery must supply evidence satisfactory to the MEB that the

applicant is a graduate of and possesses a diploma from a medical or osteopathic college approved by the MEB and has completed postgraduate training of 12 months in a facility approved by the MEB. Current law also contains provisions for issuing licenses to practice medicine and surgery to graduates of foreign medical schools that are not approved by the MEB. Such a graduate of a foreign medical school may be admitted to examination for a license to practice medicine and surgery if he or she satisfies certain requirements.

The bill — licensure of accredited medical and osteopathic college graduates

The bill repeals the provisions described above and replaces them with the following requirements that an applicant other than a graduate of a foreign medical college must satisfy in order to be eligible for a regular license to practice medicine and surgery:

1. That the applicant is a graduate of and possesses a diploma from a medical or osteopathic college that is accredited by the Liaison Committee on Medical Education, the American Osteopathic Association, or a successor organization and that is approved by the MEB.

2. That the applicant either: a) has successfully completed and received credit for 24 months of postgraduate training in one or more programs accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization; or b) be currently enrolled in a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization; has successfully completed and received credit for 12 consecutive months of postgraduate training in that program; and has received an unrestricted endorsement from the postgraduate training program director that includes confirmation that the applicant is expected to continue in the program and complete at least 24 months of postgraduate training.

3. That the applicant satisfies any other requirement established by the MEB. ✓ by rule

The bill — licensure of graduates of foreign medical colleges

The bill repeals the provisions described above and replaces them with the following requirements that an applicant who is a graduate of a foreign medical college must satisfy in order to be eligible for a regular license to practice medicine and surgery:

1. That the applicant be a graduate of and possess a diploma from a foreign medical college credentialed by an agency approved by the MEB.

2. That the applicant has obtained certification by the Educational Council for Foreign Medical Graduates or a successor organization.

3. That the applicant has passed all steps of the United States Medical Licensing Examination administered by the National Board of Medical Examiners and the Federation of State Medical Boards, or their successor organizations.

4. That the applicant has successfully completed and received credit for 24 months of postgraduate training in one or more programs accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic

✓ by rule

Association or a successor organization, the last 12 months of which were completed in a single program.

5. That the applicant satisfies any other requirement established by the MEB for issuing the license.

The bill — exceptions

The bill allows the MEB to promulgate rules specifying circumstances in which the MEB, in cases of hardship or in cases in which the applicant possesses a medical license issued by another jurisdiction, may grant a waiver from any requirement described above for a regular license to practice medicine and surgery. The MEB may grant such a waiver only in accordance with those rules.

The bill also grandfathers existing holders of a regular license to practice medicine and surgery so that they may retain and continue to renew their licenses notwithstanding the requirements in the bill described above.

CREDENTIALS FOR MEDICAL RESIDENTS

Current law — temporary educational permits

Under current law, the MEB may grant a temporary educational permit to practice medicine and surgery (TEP) to a person who meets the requirements for a license to practice medicine and surgery, other than required examinations. A TEP may be issued for a period not to exceed one year and may be renewed annually for not more than four years. A TEP permits the holder to take postgraduate educational training in a facility approved by the MEB, and the holder of a TEP may, under the direction of a licensed physician, perform services requisite to that training, but must confine training and practice to the facility in which the holder is taking the training.

The bill — resident educational licenses

The bill repeals the provisions for granting a TEP and replaces them with provisions allowing the MEB to grant a resident educational license (REL). An applicant must, under the bill, satisfy the following requirements in order to be granted an REL:

1. Provide proof that he or she has been accepted into a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization.
2. Provide written confirmation from the institution sponsoring the postgraduate training program into which he or she has been accepted confirming the appointment to that program.
3. Provide proof that he or she is a graduate of and possesses a diploma from a medical or osteopathic college that is approved by the MEB.

The bill provides that an REL is valid for one year and may be renewed for additional one-year terms while the REL holder is enrolled in his or her postgraduate training program. The bill also provides that an REL remains valid only while the REL holder is actively engaged in the practice of medicine and surgery in his or her postgraduate training program and is lawfully entitled to work in the United States. Finally, the bill provides that the holder of an REL may engage in the

practice of medicine and surgery only in connection with his or her duties under his or her postgraduate training program.

The bill grandfathers existing TEP permit holders so that they may retain and renew their TEPs for up to three years following enactment of the bill.

LICENSES FOR VISITING PHYSICIANS

Current law — temporary licenses for visiting professors

Under current law, an applicant who is a graduate of a foreign medical school and who, because of noteworthy professional attainment, is invited to serve on the academic staff of a medical college in this state as a visiting professor, may be granted a temporary license to practice medicine and surgery (visiting professor license). A visiting professor license remains in force only while the holder is serving full time on the academic staff of a medical college and the license holder's practice is limited to the duties of the academic position.

The bill — restricted licenses to practice as a visiting physician

The bill repeals the provisions for granting a visiting professor license and replaces them with provisions allowing the MEB to grant a restricted license to practice medicine and surgery as a visiting physician (visiting physician license). An applicant must, under the bill, satisfy the following requirements in order to be granted a visiting physician license:

1. Provide proof that he or she is a graduate of and possesses a diploma from a medical or osteopathic college that is approved by the board.
2. Provide proof that he or she teaches medicine, engages in medical research, or practices medicine and surgery outside this state.
3. Provide proof that the applicant is licensed to practice medicine and surgery outside this state.
4. Provide documentation that he or she intends to teach, research, or practice medicine and surgery at a medical education facility, medical research facility, or medical college in this state, which must include a signed letter from the dean or president of the facility or college.
5. Provide proof that he or she satisfies any other requirement established by the MEB for issuing the license.

by rule ✓
The bill provides that the holder of a visiting physician license may engage in the practice of medicine and surgery only at the medical education facility, medical research facility, or medical college where he or she is teaching, researching, or practicing, and only in accordance with the terms and restrictions established by the MEB. The bill provides that a visiting physician license is valid for one year and may be renewed at the discretion of the MEB. Finally, the bill provides that a visiting physician license remains valid only while the license holder is actively engaged in teaching, researching, or practicing medicine and surgery and is lawfully entitled to work in the United States.

The bill grandfathers existing visiting professor license holders so that they may retain and renew their visiting professor licenses for up to three years following enactment of the bill.

ADMINISTRATIVE PHYSICIAN LICENSE

The bill allows the MEB to grant a new type of license known under the bill as an administrative physician license (APL). The MEB may grant an APL to an applicant who satisfies the requirements for a regular license to practice medicine and surgery, other than any requirement established by the MEB relating to the active practice of medicine and surgery.

The bill provides that the holder of an APL may not, under that APL, take any action that constitutes the practice of medicine and surgery.

EXAMINATIONS FOR A LICENSE TO PRACTICE MEDICINE AND SURGERY

The bill provides that, when examining an applicant for a license to practice medicine and surgery or an APL, the MEB may only use examinations prepared, administered, and scored by national examining agencies, subject to the exception that the MEB may interview an individual applicant as needed to determine information specific to that applicant.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 440.08 (2) (a) (intro.) of the statutes is amended to read:
2 440.08 (2) (a) (intro.) Except as provided in par. (b) and in ss. 440.51, 442.04,
3 444.03, 444.11, 447.04 (2) (c) 2., 448.065, 449.17 (1m) (d), and 449.18 (2) (d) and
4 subch. II of ch. 448, the renewal dates for credentials are as follows:

✓ *****NOTE:** There appear to be various MEB credentials, both under the bill and under current law, that do not necessarily use the two-year renewal cycle with a set renewal date. I therefore added a cross-reference here to subch. II of ch. 448 to reflect the fact that some of these MEB credentials do not have a set 2-year renewal date. I also struck the cross-reference here to s. 448.065, stats., as it is being repealed in the bill. 9

- 5 **SECTION 2.** 448.02 (1) of the statutes is amended to read:
6 448.02 (1) LICENSE. The board may grant licenses, including various classes
7 of temporary licenses, to practice medicine and surgery, to practice as an
8 administrative physician, to practice perfusion, to practice as an anesthesiologist
9 assistant, and to practice as a physician assistant.

- 10 **SECTION 3.** 448.04 (1) (ac) of the statutes is created to read:

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1 448.04 (1) (ac) *Administrative physician license*. The board may grant an
2 administrative physician license to an applicant who satisfies the requirements
3 under s. 448.05 (2c). The board shall issue a license under this paragraph subject
4 to the same terms as a license issued under par. (a), except that, notwithstanding any
5 other provision of law that permits a physician to engage in any act that constitutes
6 the practice of medicine and surgery, the holder of a license issued under this
7 paragraph may not engage in the practice of medicine and surgery except as
8 otherwise authorized under s. 448.03 (2) and may not practice as provided in s.
9 448.035.

****NOTE: Section 448.03 (2), stats., contains a list of provisions describing when
a license to practice medicine and surgery is not required. I added a cross-reference to
that provision here to clarify that administrative physicians could still act under any of
these provisions (like anyone else), including s. 448.03 (2) (e), stats., which relates to
delegated practice. Is that OK?

10 **SECTION 4.** 448.04 (1) (b) 2. of the statutes is repealed.

11 **SECTION 5.** 448.04 (1) (bg) and (bm) of the statutes are created to read:

12 448.04 (1) (bg) *Restricted license to practice medicine and surgery as a visiting*
13 *physician*. 1. The board may grant a restricted license to practice medicine and
14 surgery as a visiting physician to an applicant who satisfies the requirements under
15 s. 448.05 (2) (e).

16 2. The holder of a license issued under this paragraph may engage in the
17 practice of medicine and surgery only at the medical education facility, medical
18 research facility, or medical college where the license holder is teaching, researching,
19 or practicing, and only in accordance with the terms and restrictions established by
20 the board.

21 3. Subject to subd. 4., a license issued under this paragraph is valid for one year
22 and may be renewed at the discretion of the board.

1 4. A license issued under this paragraph remains valid only while the license
2 holder is actively engaged in teaching, researching, or practicing medicine and
3 surgery and is lawfully entitled to work in the United States.

4 (bm) *Resident educational license to practice medicine and surgery.* 1. The
5 board may grant a resident educational license to practice medicine and surgery to
6 an applicant who satisfies the requirements under s. 448.05 (2) (d).

7 2. Subject to subd. 3., a license issued under this paragraph is valid for one year
8 and may be renewed for additional one-year terms while the license holder is
9 enrolled in the postgraduate training program under s. 448.05 (2) (d) 1.

10 3. A license issued under this paragraph remains valid only while the license
11 holder is actively engaged in the practice of medicine and surgery in the
12 postgraduate training program under s. 448.05 (2) (d) 1. and is lawfully entitled to
13 work in the United States.

14 4. The holder of a license issued under this paragraph may engage in the
15 practice of medicine and surgery only in connection with his or her duties under the
16 postgraduate training program under s. 448.05 (2) (d) 1.

17 **SECTION 6.** 448.04 (1) (c) of the statutes is repealed.

18 **SECTION 7.** 448.05 (1) (c) of the statutes is amended to read:

19 448.05 (1) (c) Achieve a passing grade in ~~the~~ any examinations required in this
20 section.

21 **SECTION 8.** 448.05 (1) (d) of the statutes is amended to read:

22 448.05 (1) (d) Be found qualified by three-fourths of the members of the board,
23 except that an applicant for a temporary license or certificate under s. 448.04 (1) (b)
24 1. and 3., (e), ~~and (g), or (i) or a resident educational license under s. 448.04 (1) (bm)~~
25 must be found qualified by 2 members of the board.

1 **SECTION 9.** 448.05 (2) of the statutes is repealed and recreated to read:

2 **448.05 (2) LICENSE TO PRACTICE MEDICINE AND SURGERY.** (a) Except as provided
3 in pars. (b) to (e), an applicant for any class of license to practice medicine and surgery
4 must supply evidence satisfactory to the board of all of the following:

5 1. That the applicant is a graduate of and possesses a diploma from a medical
6 or osteopathic college that is accredited by the Liaison Committee on Medical
7 Education, the American Osteopathic Association, or a successor organization and
8 that is approved by the board.

9 2. That the applicant satisfies one of the following:

10 a. The applicant has successfully completed and received credit for 24 months
11 of postgraduate training in one or more programs accredited by the Accreditation
12 Council for Graduate Medical Education, the American Osteopathic Association, or
13 a successor organization.

14 b. The applicant is currently enrolled in a postgraduate training program
15 accredited by the Accreditation Council for Graduate Medical Education, the
16 American Osteopathic Association, or a successor organization; the applicant has
17 successfully completed and received credit for 12 consecutive months of
18 postgraduate training in that program; and the applicant has received an
19 unrestricted endorsement from the postgraduate training program director that
20 includes confirmation that the applicant is expected to continue in the program and
21 complete at least 24 months of postgraduate training.

22 3. That the applicant satisfies any other requirement established by the board
23 for issuing the license.

by rule

(b) Except as provided in pars. (c) to (e), an applicant for a license to practice medicine and surgery who is a graduate of a foreign medical college must supply evidence satisfactory to the board of all of the following:

1. That the applicant is a graduate of and possesses a diploma from a foreign medical college credentialed by an agency approved by the board.

2. That the applicant has obtained certification by the Educational Council for Foreign Medical Graduates or a successor organization.

3. That the applicant has passed all steps of the United States Medical Licensing Examination administered by the National Board of Medical Examiners and the Federation of State Medical Boards, or their successor organizations.

4. That the applicant has successfully completed and received credit for 24 months of postgraduate training in one or more programs accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association or a successor organization, the last 12 months of which were completed in a single program.

5. That the applicant satisfies any other requirement established by the board for issuing the license.

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(c) The board may promulgate rules specifying circumstances in which the board, in cases of hardship or in cases in which the applicant possesses a medical license issued by another jurisdiction, may grant a waiver from any requirement under par. (a) or (b). The board may grant such a waiver only in accordance with those rules.

(d) An applicant for a resident educational license under s. 448.04 (1) (bm) shall provide the board with all of the following:

1 1. Proof that the applicant has been accepted into a postgraduate training
2 program accredited by the Accreditation Council for Graduate Medical Education,
3 the American Osteopathic Association, or a successor organization.

4 2. Written confirmation from the institution sponsoring the postgraduate
5 training program into which the applicant has been accepted confirming that the
6 applicant has been or will be appointed to a position in the program.

7 3. Proof that the applicant is a graduate of and possesses a diploma from a
8 medical or osteopathic college that is approved by the board.

9 (e) An applicant for a restricted license to practice medicine and surgery as a
10 visiting physician under s. 448.04 (1) (bg) shall provide the board with all of the
11 following:

12 1. Proof that the applicant is a graduate of and possesses a diploma from a
13 medical or osteopathic college that is approved by the board.

14 2. Proof that the applicant is licensed to practice medicine and surgery outside
15 this state.

16 3. Proof that the applicant teaches medicine, engages in medical research, or
17 practices medicine and surgery outside this state.

18 4. Documentation that the applicant intends to teach, research, or practice
19 medicine and surgery at a medical education facility, medical research facility, or
20 medical college in this state, which must include a signed letter from the dean or
21 president of the facility or college.

22 5. Proof that the applicant satisfies any other requirement established by the
23 board ^{by rule} for issuing the license. ✓

24 SECTION 10. 448.05 (2c) of the statutes is created to read:

1 448.05 (2c) ADMINISTRATIVE PHYSICIAN LICENSE. An applicant for an
2 administrative physician license must supply evidence satisfactory to the board that
3 he or she satisfies the requirements for a license to practice medicine and surgery
4 under sub. (2) (a) or (b), subject to any waiver granted under sub. (2) (c), other than
5 any requirement established by the board ^{by rule} relating to the active practice of medicine
6 and surgery.

7 **SECTION 11.** 448.05 (6) (a) of the statutes is amended to read:

8 448.05 (6) (a) Except as provided in pars. (am) ~~and~~, (ar), and (at), the board
9 shall examine each applicant it finds eligible under this section in such subject
10 matters as the board deems applicable to the class of license or certificate which the
11 applicant seeks to have granted. Examinations may be both written and oral. In lieu
12 of its own examinations, in whole or in part, the board may make such use as it deems
13 appropriate of examinations prepared, administered, and scored by national
14 examining agencies, or by other licensing jurisdictions of the United States or
15 Canada. The board shall specify passing grades for any and all examinations
16 required.

17 **SECTION 12.** 448.05 (6) (at) of the statutes is created to read:

18 448.05 (6) (at) When examining an applicant for a license to practice medicine
19 and surgery or an administrative physician license under par. (a), the board may only
20 use examinations prepared, administered, and scored by national examining
21 agencies, except that the board may interview an individual applicant as needed to
22 determine information specific to that applicant.

23 **SECTION 13.** 448.06 (1) of the statutes is amended to read:

24 448.06 (1) GRANT OF LICENSE ^{nm} ~~CERTIFICATE OR LIMITED PERMIT~~ _{plain} If Subject to s.
25 448.05 (1) (d), if three-fourths of the members of the board find that an applicant who

1 has passed the required examinations is qualified, the board shall so notify the
2 applicant and shall grant the license, ^{plain} certificate, ~~or limited permit.~~ ~~or limited permit.~~

3 **SECTION 14.** 448.063 of the statutes is created to read:

INS 4 **448.063 Notification requirements for certain licenses.** (1) If the holder
122 of a license granted under the authority of s. 448.05 (2) (a) 2. b. subsequently
6 discontinues his or her postgraduate training program at any time prior to the
7 completion of the program, the program director shall notify the board, providing full
8 details of the cause of the discontinuance and the holder's plans, if any, for completion
9 of the postgraduate training program. The board shall review the matter and may
10 take any appropriate action.

11 (2) If the holder of a license granted under s. 448.04 (1) (bg) ceases to teach,
12 research, or practice medicine and surgery at the medical education facility, medical
13 research facility, or medical college where he or she is visiting, the medical education
14 facility, medical research facility, or medical college shall notify the board. The board
15 shall review the matter and may take any appropriate action.

****NOTE: I moved this material to a new section because it didn't seem to really
relate to the authority of the Board, but rather to notification requirements. In addition,
I added a sentence to the end of sub. (2) to match what was already in sub. (1). Let me
know if that change is not desired.

16 **SECTION 15.** 448.065 of the statutes is repealed.

17 **SECTION 16.** 448.08 (1) (a) of the statutes is amended to read:

INS 18 448.08 (1) (a) "Hospital" means an institution providing 24-hour continuous
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19 service to patients confined therein which is primarily engaged in providing facilities
20 for diagnostic and therapeutic services for the surgical and medical diagnosis,
21 treatment and care, of injured or sick persons, by or under the supervision of a
22 professional staff of physicians and surgeons, and which is not primarily a place of
23 rest for the aged, drug addicts or alcoholics, or a nursing home. Such hospitals may

1 charge patients directly for the services of their employee nurses, nonphysician
2 anesthetists, physical therapists and medical assistants other than physicians or
3 dentists, and may engage on a salary basis interns and residents who are
4 participating in an accredited training program under the supervision of the medical
5 staff, and persons with a resident educational license issued under s. 448.04 (1) (bm)
6 or a temporary educational certificate issued under s. 448.04 (1) (c), 2011 stats.

7 **SECTION 17.** 448.08 (1) (a) of the statutes, as affected by 2013 Wisconsin Act
8 (this act), is amended to read:

9 448.08 (1) (a) "Hospital" means an institution providing 24-hour continuous
10 service to patients confined therein which is primarily engaged in providing facilities
11 for diagnostic and therapeutic services for the surgical and medical diagnosis,
12 treatment and care, of injured or sick persons, by or under the supervision of a
13 professional staff of physicians and surgeons, and which is not primarily a place of
14 rest for the aged, drug addicts or alcoholics, or a nursing home. Such hospitals may
15 charge patients directly for the services of their employee nurses, nonphysician
16 anesthetists, physical therapists and medical assistants other than physicians or
17 dentists, and may engage on a salary basis interns and residents who are
18 participating in an accredited training program under the supervision of the medical
19 staff, and persons with a resident educational license issued under s. 448.04 (1) (bm)
20 ~~or a temporary educational certificate issued under s. 448.04 (1) (c), 2011 stats.~~

21 **SECTION 18.** 448.10 (1), (4) and (5) of the statutes are repealed.

22 **SECTION 19.** 448.10 (1m), (2m) and (3m) of the statutes are created to read:

23 448.10 (1m) Notwithstanding s. 448.05 (2), a person who, on the effective date
24 of this subsection [LRB inserts date], possessed a valid license to practice
25 medicine and surgery under s. 448.05 (2) or 448.065, 2011 stats., may retain, practice

1 under, and continue to renew that license, subject to any other provisions in this
2 subchapter or any requirements established by the board governing a license to
3 practice medicine and surgery. *rules promulgated ✓*

****NOTE: As requested, I repealed s. 448.065. However, I added them to the grandfathering provision here for physician licenses so that anyone issued a license specifically under the authority of that provision would be able to retain it. If that is not necessary, let me know and I can take that reference out, but it probably won't hurt to have it there either way.

4 (2m) A person who, on the effective date of this subsection [LRB inserts
5 date], possessed a valid temporary license to practice medicine and surgery under
6 s. 448.04 (1) (b) 2., 2011 stats., may retain, practice under, and continue to renew that
7 license in accordance with s. 448.04 (1) (b) 2., 2011 stats., subject to any other
8 provisions in this subchapter or any requirements established by the board
9 governing that license. *rules promulgated ✓*

10 (3m) A person who, on the effective date of this subsection [LRB inserts
11 date], possessed a valid temporary educational permit to practice medicine and
12 surgery under s. 448.04 (1) (c), 2011 stats., may retain, practice under, and continue
13 to renew that permit in accordance with s. 448.04 (1) (c), 2011 stats., subject to any
14 other provisions in this subchapter or any requirements established by the board *rules promulgated ✓*
15 governing that permit, or may apply for a resident educational license under s.
16 448.04 (1) (bm).

17 SECTION 20. 448.10 (1m) of the statutes, as created by 2013 Wisconsin Act
18 (this act), is renumbered 448.10.

19 SECTION 21. 448.10 (2m) of the statutes, as created by 2013 Wisconsin Act
20 (this act), is repealed.

21 SECTION 22. 448.10 (3m) of the statutes, as created by 2013 Wisconsin Act
22 (this act), is repealed.

1 **SECTION 23.** 462.01 (4) of the statutes is amended to read:

2 462.01 (4) “Physician” means a person licensed to practice medicine and
3 surgery under s. 448.04 (1) (a) ~~or~~, (b), or (bg).

4 **SECTION 24. Nonstatutory provisions.**

5 (1) Using the procedure under section 227.24 of the statutes, the medical
6 examining board may promulgate rules under section 448.40 (1) of the statutes that
7 are necessary to implement the changes in this act and rules under section 448.05
8 (2) (c), as affected by this act, for the period before the effective date of any permanent
9 rules promulgated under section 448.40 (1) of the statutes, but not to exceed the
10 period authorized under section 227.24 (1) (c) of the statutes, subject to extension
11 under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2)
12 (b), and (3) of the statutes, the board is not required to provide evidence that
13 promulgating a rule under this subsection as an emergency rule is necessary for the
14 preservation of the public peace, health, safety, or welfare and is not required to
15 provide a finding of emergency for a rule promulgated under this subsection.

16 **SECTION 25. Initial applicability.**

17 (1) The treatment of section 448.05 (6) (a) and (at) of the statutes first applies
18 to an applicant who is admitted to examination for a license to practice medicine and
19 surgery by the medical examining board under section 448.05 (2) of the statutes, as
20 affected by this act, on the effective date of this subsection.

21 (2) The treatment of section 448.05 (2) of the statutes first applies to an
22 application for a license to practice medicine and surgery under section 448.05 (2) of
23 the statutes, as affected by this act, that is received by the medical examining board
24 on the effective date of this subsection.

SECTION 26. Effective dates. This act takes effect on the first day of the 12th month beginning after publication, except as follows:

(1) The repeal of section 448.10 (2m) and (3m) of the statutes, the renumbering of section 448.10 (1m) of the statutes and the amendment of section 448.08 (1) (a) (by SECTION 17) of the statutes take effect on the first day of the 36th month beginning after publication.

(END)

treatment of sections 448.02 (3) (a), (b), (c), (e) and (h),
(4) (a) and (b), (5), (6), and (8) (a), (b), and (c),
448.06 (title), 448.07 (1) (d), and 448.08 (i)

and (1) (by SECTION X)

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**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

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SECTION 1. 448.02 (3) (a) of the statutes is amended to read:

448.02 (3) (a) The board shall investigate allegations of unprofessional conduct and negligence in treatment by persons holding a license, ✓ or certificate ✓ or limited permit granted by the board. An allegation that a physician has violated s. 253.10 (3), 448.30 or 450.13 (2) or has failed to mail or present a medical certification required under s. 69.18 (2) within 21 days after the pronouncement of death of the person who is the subject of the required certificate or that a physician has failed at least 6 times within a 6-month period to mail or present a medical certificate required under s. 69.18 (2) within 6 days after the pronouncement of death of the person who is the subject of the required certificate is an allegation of unprofessional conduct. Information contained in reports filed with the board under s. 49.45 (2) (a) 12r., 50.36 (3) (b), 609.17 or 632.715, or under 42 CFR 1001.2005, shall be investigated by the board. Information contained in a report filed with the board under s. 655.045 (1), as created by 1985 Wisconsin Act 29, which is not a finding of negligence or in a report filed with the board under s. 50.36 (3) (c) may, within the discretion of the board, be used as the basis of an investigation of a person named in the report. The board may require a person holding a license, or certificate ~~or limited permit~~ ✓ to undergo and may consider the results of one or more physical, mental or professional competency examinations if the board believes that the results of any such examinations may be useful to the board in conducting its investigation.

History: 1975 c. 383, 421; 1977 c. 418; 1981 c. 135, 375, 391; 1983 a. 188 s. 10; 1983 a. 189 s. 329 (5); 1983 a. 253, 538; 1985 a. 29; 1985 a. 146 s. 8; 1985 a. 315, 332, 340; 1987 a. 27, 399, 403; 1989 a. 229; 1991 a. 186; 1993 a. 105, 107; 1995 a. 309; 1997 a. 67, 175, 191, 311; 1999 a. 32, 180; 2001 a. 89; 2009 a. 382; 2011 a. 160.

SECTION 2. 448.02 (3) (b) of the statutes is amended to read:

448.02 (3) (b) After an investigation, if the board finds that there is probable cause to believe that the person is guilty of unprofessional conduct or negligence in

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1 treatment, the board shall hold a hearing on such conduct. The board may use any
2 information obtained by the board or the department under s. 655.17 (7) (b), as
3 created by 1985 Wisconsin Act 29, in an investigation or a disciplinary proceeding,
4 including a public disciplinary proceeding, conducted under this subsection and the
5 board may require a person holding a license, or certificate[✓] ~~or limited permit~~ to
6 undergo and may consider the results of one or more physical, mental or professional
7 competency examinations if the board believes that the results of any such
8 examinations may be useful to the board in conducting its hearing. A unanimous
9 finding by a panel established under s. 655.02, 1983 stats., or a finding by a court that
10 a physician has acted negligently in treating a patient is conclusive evidence that the
11 physician is guilty of negligence in treatment. A finding that is not a unanimous
12 finding by a panel established under s. 655.02, 1983 stats., that a physician has acted
13 negligently in treating a patient is presumptive evidence that the physician is guilty
14 of negligence in treatment. A certified copy of the findings of fact, conclusions of law
15 and order of the panel or the order of a court is presumptive evidence that the finding
16 of negligence in treatment was made. The board shall render a decision within 90
17 days after the date on which the hearing is held or, if subsequent proceedings are
18 conducted under s. 227.46 (2), within 90 days after the date on which those
19 proceedings are completed.

History: 1975 c. 383, 421; 1977 c. 418; 1981 c. 135, 375, 391; 1983 a. 188 s. 10; 1983 a. 189 s. 329 (5); 1983 a. 253, 538; 1985 a. 29; 1985 a. 146 s. 8; 1985 a. 315, 332, 340; 1987 a. 27, 399, 403; 1989 a. 229; 1991 a. 186; 1993 a. 105, 107, 109, 111, 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, 135, 137, 139, 141, 143, 145, 147, 149, 151, 153, 155, 157, 159, 161, 163, 165, 167, 169, 171, 173, 175, 177, 179, 181, 183, 185, 187, 189, 191, 193, 195, 197, 199, 201, 203, 205, 207, 209, 211, 213, 215, 217, 219, 221, 223, 225, 227, 229, 231, 233, 235, 237, 239, 241, 243, 245, 247, 249, 251, 253, 255, 257, 259, 261, 263, 265, 267, 269, 271, 273, 275, 277, 279, 281, 283, 285, 287, 289, 291, 293, 295, 297, 299, 301, 303, 305, 307, 309, 311, 313, 315, 317, 319, 321, 323, 325, 327, 329, 331, 333, 335, 337, 339, 341, 343, 345, 347, 349, 351, 353, 355, 357, 359, 361, 363, 365, 367, 369, 371, 373, 375, 377, 379, 381, 383, 385, 387, 389, 391, 393, 395, 397, 399, 401, 403, 405, 407, 409, 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3831, 3833, 3835, 3837, 3839, 3841, 3843, 3845, 3847, 3849, 3851, 3853, 3855, 3857, 3859, 3861, 3863, 3865, 3867, 3869, 3871, 3873, 3875, 3877, 3879, 3881, 3883, 3885, 3887, 3889, 3891, 3893, 3895, 3897, 3899, 3901, 3903, 3905, 3907, 3909, 3911, 3913, 3915, 3917, 3919, 3921, 3923, 3925, 3927, 3929, 3931, 3933, 3935, 3937, 3939, 3941, 3943, 3945, 3947, 3949, 3951, 3953, 3955, 3957, 3959, 3961, 3963, 3965, 3967, 3969, 3971, 3973, 3975, 3977, 3979, 3981, 3983, 3985, 3987, 3989, 3991, 3993, 3995, 3997, 3999, 4001, 4003, 4005, 4007, 4009, 4011, 4013, 4015, 4017, 4019, 4021, 4023, 4025, 4027, 4029, 4031, 4033, 4035, 4037, 4039, 4041, 4043, 4045, 4047, 4049, 4051, 4053, 4055, 4057, 4059, 4061, 4063, 4065, 4067, 4069, 4071, 4073, 4075, 4077, 4079, 4081, 4083, 4085, 4087, 4089, 4091, 4093, 4095, 4097, 4099, 4101, 4103, 4105, 4107, 4109, 4111, 4113, 4115, 4117, 4119, 4121, 4123,

1 treatment, do one or more of the following: warn or reprimand that person, or limit,
2 suspend or revoke any license, or certificate ~~or limited permit~~ granted by the board
3 to that person. The board may condition the removal of limitations on a license, or
4 certificate ~~or limited permit~~ or the restoration of a suspended or revoked license, or
5 certificate ~~or limited permit~~ upon obtaining minimum results specified by the board
6 on one or more physical, mental or professional competency examinations if the
7 board believes that obtaining the minimum results is related to correcting one or
8 more of the bases upon which the limitation, suspension or revocation was imposed.

History: 1975 c. 383, 421; 1977 c. 418; 1981 c. 135, 375, 391; 1983 a. 188 s. 10; 1983 a. 189 s. 329 (5); 1983 a. 253, 538; 1985 a. 29; 1985 a. 146 s. 8; 1985 a. 315, 332, 340; 1987 a. 27, 399, 403; 1989 a. 229; 1991 a. 186; 1993 a. 105, 107; 1995 a. 309; 1997 a. 67, 175, 191, 311; 1999 a. 32, 180; 2001 a. 89; 2009 a. 382; 2011 a. 160.


9 **SECTION 4.** 448.02 (3) (e) of the statutes is amended to read:

10 448.02 (3) (e) A person whose license, or certificate ~~or limited permit~~ is limited
11 under this subchapter shall be permitted to continue practice upon condition that the
12 person will refrain from engaging in unprofessional conduct; that the person will
13 appear before the board or its officers or agents at such times and places as may be
14 designated by the board from time to time; that the person will fully disclose to the
15 board or its officers or agents the nature of the person's practice and conduct; that
16 the person will fully comply with the limits placed on his or her practice and conduct
17 by the board; that the person will obtain additional training, education or
18 supervision required by the board; and that the person will cooperate with the board.

History: 1975 c. 383, 421; 1977 c. 418; 1981 c. 135, 375, 391; 1983 a. 188 s. 10; 1983 a. 189 s. 329 (5); 1983 a. 253, 538; 1985 a. 29; 1985 a. 146 s. 8; 1985 a. 315, 332, 340; 1987 a. 27, 399, 403; 1989 a. 229; 1991 a. 186; 1993 a. 105, 107; 1995 a. 309; 1997 a. 67, 175, 191, 311; 1999 a. 32, 180; 2001 a. 89; 2009 a. 382; 2011 a. 160.

19 **SECTION 5.** 448.02 (3) (h) of the statutes is amended to read:

20 448.02 (3) (h) Nothing in this subsection prohibits the board, in its discretion,
21 from investigating and conducting disciplinary proceedings on allegations of
22 unprofessional conduct by persons holding a license, or certificate ~~or limited permit~~



1 granted by the board when the allegations of unprofessional conduct may also
2 constitute allegations of negligence in treatment.

3 ~~Cross-reference: Cross-reference: Cross-reference: See also ch. Med 10, Wis. adm. code. Cross-reference:~~
History: 1975 c. 383, 421; 1977 c. 418; 1981 c. 135, 375, 391; 1983 a. 188 s. 10; 1983 a. 189 s. 329 (5); 1983 a. 253, 538; 1985 a. 29; 1985 a. 146 s. 8; 1985 a. 315, 332,
340; 1987 a. 27, 399, 403; 1989 a. 229; 1991 a. 186; 1993 a. 105, 107; 1995 a. 309; 1997 a. 67, 175, 191, 311; 1999 a. 32, 180; 2001 a. 89; 2009 a. 382; 2011 a. 160.

4 **SECTION 6.** 448.02 (4) (a) of the statutes is amended to read:

5 448.02 (4) (a) The board may summarily suspend any license, or certificate, ~~or~~ ✓
6 ~~limited permit~~ granted by the board when the board has in its possession evidence
7 establishing probable cause to believe that the holder of the license, or certificate, ~~or~~ ✓
8 ~~limited permit~~ has violated the provisions of this subchapter and that it is necessary
9 to suspend the license, or certificate, ~~or limited permit~~ ✓ immediately to protect the
10 public health, safety, or welfare. The holder of the license, or certificate, ~~or limited~~ ✓
11 ~~permit~~ shall be granted an opportunity to be heard during the determination of
12 probable cause. The board chair and 2 board members designated by the chair or,
13 if the board chair is not available, the board vice-chair and 2 board members
14 designated by the vice-chair, shall exercise the authority granted by this paragraph
15 to suspend summarily a license, or certificate, ~~or limited permit~~ ✓ in the manner
16 provided under par. (b).

History: 1975 c. 383, 421; 1977 c. 418; 1981 c. 135, 375, 391; 1983 a. 188 s. 10; 1983 a. 189 s. 329 (5); 1983 a. 253, 538; 1985 a. 29; 1985 a. 146 s. 8; 1985 a. 315, 332,
340; 1987 a. 27, 399, 403; 1989 a. 229; 1991 a. 186; 1993 a. 105, 107; 1995 a. 309; 1997 a. 67, 175, 191, 311; 1999 a. 32, 180; 2001 a. 89; 2009 a. 382; 2011 a. 160.

17 **SECTION 7.** 448.02 (4) (b) of the statutes is amended to read:

18 448.02 (4) (b) An order of summary suspension shall be served upon the holder
19 of the license, or certificate, ~~or limited permit~~ ✓ in the manner provided in s. 801.11 for
20 service of summons. The order of summary suspension shall be effective upon service
21 or upon actual notice of the summary suspension given to the holder of the license,
22 or certificate, ~~or limited permit~~ ✓ or to the attorney of the license, ~~permit,~~ ✓ or limited
23 ~~permit~~ ✓ certificate holder, whichever is sooner. A notice of hearing commencing a
24 disciplinary proceeding shall be issued no more than 10 days following the issuance

1 of the order of summary suspension. The order of summary suspension remains in
2 effect until the effective date of a final decision and order in the disciplinary
3 proceeding against the holder or until the order of summary suspension is
4 discontinued by the board following a hearing to show cause. The holder of the
5 license, or certificate, ~~or limited permit~~ shall have the right to request a hearing to
6 show cause why the order of summary suspension should not be continued and the
7 order of summary suspension shall notify the holder of the license, or certificate, ~~or~~
8 ~~limited permit~~ of that right. If a hearing to show cause is requested by the holder
9 of the license, or certificate, ~~or limited permit~~, the hearing shall be scheduled on a
10 date within 20 days of receipt by the board of the request for the hearing to show
11 cause.

History: 1975 c. 383, 421; 1977 c. 418; 1981 c. 135, 375, 391; 1983 a. 188 s. 10; 1983 a. 189 s. 329 (5); 1983 a. 253, 538; 1985 a. 29; 1985 a. 146 s. 8; 1985 a. 315, 332, 340; 1987 a. 27, 399, 403; 1989 a. 229; 1991 a. 186; 1993 a. 185, 407; 1995 a. 309; 1997 a. 67, 175, 191, 311; 1999 a. 32, 180; 2001 a. 89; 2009 a. 382; 2011 a. 160.

12 **SECTION 8. 448.02 (5) of the statutes is amended to read:**

13 448.02 (5) VOLUNTARY SURRENDER. The holder of any license, or certificate ~~or~~
14 ~~limited permit~~ granted by the board may voluntarily surrender the license, or
15 certificate ~~or limited permit~~ to the secretary of the board, but the secretary may
16 refuse to accept the surrender if the board has received allegations of unprofessional
17 conduct against the holder of the license, or certificate ~~or limited permit~~. The board
18 may negotiate stipulations in consideration for accepting the surrender of licenses.

History: 1975 c. 383, 421; 1977 c. 418; 1981 c. 135, 375, 391; 1983 a. 188 s. 10; 1983 a. 189 s. 329 (5); 1983 a. 253, 538; 1985 a. 29; 1985 a. 146 s. 8; 1985 a. 315, 332, 340; 1987 a. 27, 399, 403; 1989 a. 229; 1991 a. 186; 1993 a. 185, 407; 1995 a. 309; 1997 a. 67, 175, 191, 311; 1999 a. 32, 180; 2001 a. 89; 2009 a. 382; 2011 a. 160.

19 **SECTION 9. 448.02 (6) of the statutes is amended to read:**

20 448.02 (6) RESTORATION OF LICENSE, OR CERTIFICATE ~~OR LIMITED PERMIT~~. The board
21 may restore any license, or certificate ~~or limited permit~~ which that has been



voluntarily surrendered or revoked under any of the provisions of this subchapter,
on such terms and conditions as it may deem appropriate.

History: 1975 c. 383, 421; 1977 c. 418; 1981 c. 135, 375, 391; 1983 a. 188 s. 10; 1983 a. 189 s. 329 (5); 1983 a. 253, 538; 1985 a. 29; 1985 a. 146 s. 8; 1985 a. 315, 332, 340; 1987 a. 27, 399, 403; 1989 a. 229; 1991 a. 186; 1993 a. 105, 107; 1995 a. 309; 1997 a. 67, 175, 191, 311; 1999 a. 32, 180; 2001 a. 89; 2009 a. 382; 2011 a. 160.

SECTION 10. 448.02 (8) (a) of the statutes is amended to read:

448.02 (8) (a) After an investigation by the board under sub. (3) (a) or by the
department under s. 440.03 (3m) or (5), the board may issue a private and
confidential administrative warning to a holder of a license, or certificate [✓] ~~or limited~~
~~permit~~ if the board determines that there is evidence of misconduct by him or her.
The board may issue an administrative warning under this paragraph only if the
board determines that no further action is warranted because the matter involves
a first occurrence of minor misconduct and the issuance of an administrative
warning adequately protects the public by putting the holder of the license, or
certificate ~~or limited permit~~ [✓] on notice that any subsequent misconduct may result
in disciplinary action. The board shall review the determination if the holder of the
license, or certificate ~~or limited permit~~ [✓] makes a personal appearance before the
board. Following the review, the board may affirm, rescind or modify the
administrative warning. A holder of a license, or certificate [✓] ~~or limited permit~~ may
seek judicial review under ch. 227 of an affirmation or modification of an
administrative warning by the board.

History: 1975 c. 383, 421; 1977 c. 418; 1981 c. 135, 375, 391; 1983 a. 188 s. 10; 1983 a. 189 s. 329 (5); 1983 a. 253, 538; 1985 a. 29; 1985 a. 146 s. 8; 1985 a. 315, 332, 340; 1987 a. 27, 399, 403; 1989 a. 229; 1991 a. 186; 1993 a. 105, 107; 1995 a. 309; 1997 a. 67, 175, 191, 311; 1999 a. 32, 180; 2001 a. 89; 2009 a. 382; 2011 a. 160.

SECTION 11. 448.02 (8) (b) of the statutes is amended to read:

448.02 (8) (b) An administrative warning issued under par. (a) does not
constitute an adjudication of guilt or the imposition of discipline and may not be used



as evidence that the holder of a license, or certificate ~~or limited permit~~ is guilty of misconduct.

History: 1975 c. 383, 421; 1977 c. 418; 1981 c. 135, 375, 391; 1983 a. 188 s. 10; 1983 a. 189 s. 329 (5); 1983 a. 253, 538; 1985 a. 29; 1985 a. 146 s. 8; 1985 a. 315, 332, 340; 1987 a. 27, 399, 403; 1989 a. 229; 1991 a. 186; 1993 a. 105, 107; 1995 a. 309; 1997 a. 67, 175, 191, 311; 1999 a. 32, 180; 2001 a. 89; 2009 a. 382; 2011 a. 160.

SECTION 12. 448.02 (8) (c) of the statutes is amended to read:

448.02 (8) (c) Notwithstanding par. (b), if the board receives a subsequent allegation of misconduct about a holder of a license, or certificate ~~or limited permit~~ to whom the board issued an administrative warning under par. (a), the board may reopen the matter that resulted in the issuance of the administrative warning or use the administrative warning in any subsequent disciplinary hearing under sub. (3) (b) as evidence that he or she had actual knowledge that the misconduct that was the basis for the administrative warning was contrary to law.

History: 1975 c. 383, 421; 1977 c. 418; 1981 c. 135, 375, 391; 1983 a. 188 s. 10; 1983 a. 189 s. 329 (5); 1983 a. 253, 538; 1985 a. 29; 1985 a. 146 s. 8; 1985 a. 315, 332, 340; 1987 a. 27, 399, 403; 1989 a. 229; 1991 a. 186; 1993 a. 105, 107; 1995 a. 309; 1997 a. 67, 175, 191, 311; 1999 a. 32, 180; 2001 a. 89; 2009 a. 382; 2011 a. 160.

INSERT 11-22

SECTION 13. 448.06 (title) and (1) of the statutes ~~are~~ ^{is} amended to read:

448.06 (title) License, or certificate ~~or limited permit~~ granted, denied.

448.06 (1) GRANT OF LICENSE, OR CERTIFICATE, ~~OR LIMITED PERMIT~~. Subject to s. 448.05 (1)

(d), if three-fourths of the members of the board find that an applicant who has passed the required examinations is qualified, the board shall so notify the applicant and shall grant the license, or certificate, ~~or limited permit~~.

INSERT 12-2

INSERT 12-16

SECTION 14. 448.07 (1) (d) of the statutes is amended to read:

448.07 (1) (d) No registration may be permitted by the secretary of the board in the case of any physician or perfusionist who has failed to meet the requirements of s. 448.13 or any person whose license, or certificate, ~~or limited permit~~ has been suspended or revoked and the registration of any such person shall be deemed

1 automatically annulled upon receipt by the secretary of the board of a verified report
2 of such suspension or revocation, subject to the licensee's or permittee's person's right
3 of appeal. A person whose license, or certificate, ~~or limited permit~~ has been
4 suspended or revoked and subsequently restored shall be registered by the board
5 upon tendering a verified report of such restoration of the license, or certificate, ~~or~~
6 ~~limited permit~~, together with an application for registration and the registration fee.

History: 1975 c. 383, 421; 1977 c. 29, 131, 418; 1979 c. 162; 1987 a. 27, 264, 399; 1991 a. 39; 1995 a. 245; 1997 a. 175; 1999 a. 180; 2001 a. 89; 2007 a. 20.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2237/1dn

MED: ~~x~~....

Dak

jd

This version deletes all references to "permits" from subch. II of ch. 448.[✓] As discussed with AJ, I also added clarifications that any additional licensure requirements established by the MEB would have to be by rule. In addition, I made similar changes to s. 448.10 (1m), (2m), and (3m)[✓] to provide that grandfathered individuals would be subject to provisions in subch. II of ch. 448 and any rules promulgated by the MEB.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2237/1dn
MED:jld:rs

January 22, 2014

This version deletes all references to “permits” from subch. II of ch. 448. As discussed with AJ, I also added clarifications that any additional licensure requirements established by the MEB would have to be by rule. In addition, I made similar changes to s. 448.10 (1m), (2m), and (3m) to provide that grandfathered individuals would be subject to provisions in subch. II of ch. 448 and any rules promulgated by the MEB.

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Rose, Stefanie

From: Scholz, AJ
Sent: Wednesday, February 05, 2014 11:47 AM
To: LRB.Legal
Subject: Draft Review: LRB -2237/1 Topic: Changes to physician licensure requirements in chapter 448

Please Jacket LRB -2237/1 for the ASSEMBLY.